

House File 2454 - Introduced

HOUSE FILE 2454

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2382)

(SUCCESSOR TO HSB 648)

A BILL FOR

1 An Act relating to economic development by modifying the
2 innovation fund investment tax credit and the authority and
3 duties of the Iowa innovation corporation, and including
4 effective date and retroactive applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 15.107A, Code Supplement 2011, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 3. The corporation may establish an
4 innovation fund for purposes of stimulating early-stage and
5 seed capital investment in the state. If the innovation fund
6 is established to qualify for innovation tax credits pursuant
7 to section 15E.52, then the corporation shall ensure that the
8 following requirements are met:

9 a. Any entity engaged to provide investment management
10 services to the innovation fund shall be chosen according to an
11 open and competitive proposal process, and the duration of a
12 contract entered into with such an entity shall not exceed four
13 years.

14 b. The compensation package provided to an entity engaged
15 pursuant to paragraph "a" shall be at or below the market rate
16 for such services as determined by at least one independent
17 investment management evaluation group.

18 c. Any contract entered into for services pursuant to
19 this subsection shall be made available to the authority, the
20 general assembly, the auditor of state, and the governor's
21 office.

22 Sec. 2. Section 15E.52, Code Supplement 2011, is amended to
23 read as follows:

24 **15E.52 Innovation fund investment tax credits.**

25 1. For purposes of this section, unless the context
26 otherwise requires:

27 a. "*Board*" means the same as defined in section 15.102.

28 b. "*Innovation fund*" means one or more early-stage capital
29 funds certified by the board.

30 c. "*Innovative business*" means a business applying novel
31 or original methods to the manufacture of a product or the
32 delivery of a service. "*Innovative business*" includes but is
33 not limited to a business engaged in a targeted industry as
34 defined in section 15.411.

35 2. a. A tax credit shall be allowed against the taxes

1 imposed in chapter 422, divisions II, III, and V, and in
2 chapter 432, and against the moneys and credits tax imposed
3 in section 533.329, for ~~a portion of a taxpayer's equity~~
4 investment in the form of cash in an innovation fund.

5 **b.** An individual may claim a tax credit under this section
6 of a partnership, limited liability company, S corporation,
7 estate, or trust electing to have income taxed directly to
8 the individual. The amount claimed by the individual shall
9 be based upon the pro rata share of the individual's earnings
10 from the partnership, limited liability company, S corporation,
11 estate, or trust.

12 3. ~~a.~~ ~~The amount of a tax credit allowed under this section~~
13 ~~shall equal twenty percent of the taxpayer's equity investment~~
14 ~~in an innovation fund~~ tax credits allowed under this section
15 for a fiscal year shall equal the amount allocated in section
16 15.119, subsection 2, paragraph "g".

17 ~~b.~~ Each fiscal year, the authority shall issue one or more
18 certificates totaling the amount allowed under paragraph "a"
19 to one or more nonprofit corporations operating an innovation
20 fund.

21 ~~c.~~ Notwithstanding subsection 11, a corporation to which
22 a certificate has been issued pursuant to paragraph "b" shall
23 only transfer the amount of tax credits represented on the
24 certificate to taxpayers who agree to invest in an innovation
25 fund.

26 4. A taxpayer shall not claim a tax credit under this
27 section if the taxpayer is a venture capital investment fund
28 allocation manager for the Iowa fund of funds created in
29 section 15E.65 or an investor that receives a tax credit for
30 the same investment in a qualifying business as described in
31 section 15E.44 or in a community-based seed capital fund as
32 described in section 15E.45.

33 5. ~~a.~~ ~~The board shall issue certificates under this section~~
34 ~~which may be redeemed for tax credits. The board shall issue~~
35 ~~such certificates so that not more than the amount allocated~~

1 ~~for such tax credits under section 15.119, subsection 2, may be~~
2 ~~claimed. The certificates shall not be transferable.~~

3 ~~b.~~ The board shall, in cooperation with the department of
4 revenue, establish criteria and procedures for the allocation
5 and issuance of tax credits by means of certificates issued
6 by the board. The criteria shall include the contingencies
7 that must be met for a certificate to be redeemable in order to
8 receive a tax credit. The procedures established by the board,
9 in cooperation with the department of revenue, shall relate to
10 the procedures for the issuance of the certificates and for the
11 redemption of a certificate and related tax credit.

12 6. A taxpayer shall not redeem a certificate and related tax
13 credit prior to the third tax year following the tax year in
14 which the investment is made. Any tax credit in excess of the
15 taxpayer's liability for the tax year may be credited to the
16 tax liability for the following five years or until depleted,
17 whichever is earlier. A tax credit shall not be carried back
18 to a tax year prior to the tax year in which the taxpayer claims
19 the tax credit.

20 7. An innovation fund shall submit an application for
21 certification to the board. The board shall approve the
22 application and certify the innovation fund if all of the
23 following criteria are met:

24 a. The fund is organized for the purposes of making
25 investments in promising early-stage companies which have a
26 principal place of business in the state.

27 b. The fund proposes to make investments in innovative
28 businesses.

29 c. The fund seeks to secure private funding sources for
30 investment in such businesses.

31 d. The fund meets any other criteria adopted by the
32 authority by rule.

33 8. A tax credit certificate issued pursuant to this section
34 shall not and cannot pledge the credit of the state. A tax
35 credit certificate issued pursuant to this section shall not

1 constitute a contract binding the state if such a certificate
2 is pledged to secure the debt of a taxpayer.

3 9. Tax credit certificates issued pursuant to this section
4 may be transferred to any person or entity. Within ninety days
5 of transfer, the transferee shall submit the transferred tax
6 credit certificate to the department of revenue along with a
7 statement containing the transferee's name, tax identification
8 number, and address, the denomination that each replacement
9 tax credit certificate is to carry, and any other information
10 required by the department of revenue.

11 10. Within thirty days of receiving the transferred
12 tax credit certificate and the transferee's statement, the
13 department of revenue shall issue one or more replacement
14 tax credit certificates to the transferee. Each replacement
15 tax credit certificate must contain the information required
16 for the original tax credit certificate and must have the
17 same expiration date that appeared in the original tax credit
18 certificate. A replacement tax credit certificate may reflect
19 a different type of tax than the type of tax noted on the
20 original tax credit certificate. A tax credit shall not be
21 claimed by a transferee under this section until a replacement
22 tax credit certificate identifying the transferee as the proper
23 holder has been issued.

24 11. The transferee may use the amount of the tax credit
25 transferred against the taxes imposed in chapter 422, divisions
26 II, III, and V, and in chapter 432, and against the moneys and
27 credits tax imposed in section 533.329, for any tax year the
28 original transferor could have claimed the tax credit. Any
29 consideration received for the transfer of the tax credit shall
30 not be included as income under chapter 422, divisions II, III,
31 and V. Any consideration paid for the transfer of the tax
32 credit shall not be deducted from income under chapter 422,
33 divisions II, III, and V.

34 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
35 immediate importance, takes effect upon enactment.

1 Sec. 4. RETROACTIVE APPLICABILITY. This Act applies
2 retroactively to January 1, 2012, for tax years beginning on or
3 after that date and equity investments in an innovation fund
4 made on or after that date.

5 EXPLANATION

6 This bill relates to economic development by modifying the
7 innovation fund investment tax credit and allowing the Iowa
8 innovation corporation to establish an innovation fund.

9 Under current law, the economic development authority is
10 required to issue nontransferable tax credit certificates
11 equal to 20 percent of a taxpayer's equity investment in an
12 innovation fund. The tax credits available for issuance are
13 limited to a total of \$8 million per fiscal year.

14 The bill modifies the credit by removing the 20 percent
15 limitation and specifying that for each fiscal year a total
16 of \$8 million in innovation fund investment tax credit
17 certificates shall be issued by the authority to one or
18 more nonprofit corporations operating an innovation fund. A
19 nonprofit corporation which receives a tax credit certificate
20 from the authority shall only transfer the certificate to
21 taxpayers who agree to invest in an innovation fund. The bill
22 makes the tax credit certificates transferable and establishes
23 procedures for transferring the credit to another person or
24 entity.

25 The bill provides that any innovation tax credit certificate
26 issued by the authority cannot pledge the credit of the state
27 and shall not constitute a contract binding the state if the
28 certificate is pledged to secure a debt of the taxpayer.

29 The bill adds an additional requirement for certification of
30 an innovation fund which requires an applicant fund to meet any
31 other criteria adopted by the economic development authority
32 by rule.

33 The bill allows the Iowa innovation corporation to establish
34 an innovation fund for purposes of stimulating early-stage
35 and seed capital investment in the state. If the fund is

1 established to qualify for innovation fund tax credits, then
2 it must meet certain requirements as described in the bill
3 relating to contracts for investment management services.

4 The bill is effective upon enactment and applies
5 retroactively to January 1, 2012, for tax years beginning on
6 or after that date and for equity investments in an innovation
7 fund made on or after that date.